IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIFTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 641 of 2005

Between:

L. Musalaiah, S/o. Sri Peda Kantayya,

Occu: Junior Telecom Officer,
Outdoor, Gudivada, Resident of D.No. 14/254-B,

Station Road, Gudivada.

..... PETITIONER

AND

1 The Union of India,

rep., by the Secretary to Government,

Department of Telecommunications, Sanchar Bhawan,
New Delhi - 110 001.

2 The General Manager,

Telecom District, M/s. Bharat Sanchar Nigam Limited,
BSNL Bhawan, MCVM, Vijayawada - 520 004.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Mandamus the Respondents to stop the conduction of the Disciplinary proceedings initiated against the petitioner vide Charge Memo No. GMTD VJ/VIG/LM/2003-04/01 dated 5th May, 2003 issued by the 2nd Respondent till the conclusion of the criminal proceedings pending against him in CC No. 8/2003 on the file of the Special Judge for CBI Cases at Visakhapatnam.

Counsel for the Petitioner : Mr. VEMURI VENKATESWARA RAO

Counsel for the Respondents : Smt. :P.Madhavi Devi

(for Mr. T. HANUMANTHA REDDY)

The Court at the stage of admission made the following ORDER :

This Writ Petition is filed seeking a direction to respondents to stop the disciplinary proceedings initiated against the petitioner vide Charge Memo No.GMTD VJ/VIG/LM/2003-04/01 dated

05-05-2003 issued by the 2nd respondent till the conclusion of the criminal proceedings pending against the petitioner in C.C.No.8 of 2003 on the file of the Special Judge for Central Bureau of Investigation Cases at Visakhapatnam.

2. Learned counsel appearing for the petitioner contended that the evidence to be let in both in the criminal case and in the disciplinary proceedings is one and the same and therefore, the disciplinary proceedings should be stopped till the completion of the criminal proceedings initiated against the petitioner in C.C.No.8 of 2003.

3. On the other hand, Smt P.Madhavi Devi, appearing on behalf of Sri T.Hanumanth Reddy, learned counsel for the respondents contended that the ground raised by the learned counsel for the petitioner that the evidence to be let in both in the criminal case and in the disciplinary proceedings is one and the same, is not a bar to stop the disciplinary proceedings against the petitioner.

4. As seen from the charge sheet of the Central Bureau of Investigation, Visakhapatnam, seventeen witnesses have been cited and out of them, eleven witnesses are self-same witnesses, who are examined in disciplinary proceedings. On perusal of the disciplinary proceedings and the witnesses cited in the charge sheet, It can be said that the evidence to be let in both the cases is one and the same. No doubt, there is no bar for staying the disciplinary proceedings simply because the criminal case is pending, but at the same time, the disciplinary proceedings cannot be proceeded further as the evidence to be let in both in the criminal case and the disciplinary proceedings is one and the same. This legal aspect is not disputed by this Court. However, this Court is not granting any absolute stay of disciplinary proceedings. If the petitioner drags on the proceedings or plays any delaying tactics in the criminal case, liberty is given to the respondents to proceed further with the disciplinary proceedings.

5. With the above direction, this Writ Petition is disposed of. No costs.

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(K.C.BHANU,J)

25th January, 2005.

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To

1 The Secretary to Government,

Union of India, Department of Telecommunications,

Sanchar Bhawan, New Delhi - 110 001.

2 The General Manager, Telecom District,

M/s. Bharat Sanchar Nigam Limited,
BSNL Bhawan, MCVM, Vijayawada - 520 004.

3 Two CD copies